

customers on many levels. One of those levels is price competition, as the foregoing discussion makes clear. Another level of competition is BACTC's effort to develop a favorable image in the many communities it aims to serve. That image is cultivated by the types of services BACTC offers, the quality of those service, and its customers' sense that their quality is worth the price BACTC charges for them.

B. The Average Price of BACTC's Cellular Service Has Declined Substantially Since 1986.

As noted above, the overall result of BACTC's innovative service offerings has been a slight reduction in the average total price per minute of BACTC's services, but a very substantial reduction in BACTC's average monthly bill. In the face of continuing inflation in the costs of goods and services, BACTC's average revenue per subscriber has declined since 1990 by more than \$35 per month -- a reduction of over 30 percent in three years.

One factor contributing toward this decline in revenue per customer has been a concurrent decline in the average monthly usage per customer. BACTC's experience shows that this trend is a result of the evolving composition of the cellular customer base and of changes in general economic conditions. These considerations are discussed at greater length in Section II.A, above.

In this context of declining usage per customer, reflective of a more frugal customer base, it is particularly significant that BACTC's average total price per minute of service

has declined over the past several years, if only by a few percentage points. Thus, in the face of declining usage, which requires that service activation and monthly access charges be spread across a smaller volume of air-time minutes, the total rates per minute BACTC customers pay still have declined. This is a sure sign that price competition has become a reality in the San Francisco Bay area market.

IV. BACTC CONTINUES TO ENHANCE THE QUALITY OF ITS CELLULAR SERVICE THROUGH DEPLOYMENT OF ADVANCED TECHNOLOGY.

A. BACTC Has Consistently Achieved and Maintained High Levels of Service Quality and Customer Satisfaction.

A very important result of BACTC's capital investment program and the consequent expansion of BACTC's system and its transmission capacity has been a substantial improvement in the quality of BACTC's service as perceived by its customers. Voice transmission quality has improved; static and cross-talk has diminished; the percentages of dropped and blocked calls have been greatly reduced. These last factors are the ones most easily quantified, and presented below using the 1989 percentages as a base, they tell a dramatic story:

	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
Trend in % of Calls Dropped	100	88	78	60	61
Trend in % of Calls Blocked	100	61	32	19	23

These measures of service quality did not improve in the year 1993, which may be attributed to the slowdown in cell site construction occasioned by the intensive investigation of BACTC's

and other carriers' cell site construction practices in the Commission's ongoing investigation of compliance with General Order No. 159, I.92-01-002.

BACTC has also been a leader in efforts to eliminate special circumstances that posed impediments to high-quality cellular service. BACTC was the first Bay Area carrier to provide service through the Caldecott Tunnel in Alameda County and the MacArthur Tunnel in San Francisco. BACTC also was the first carrier in the Bay Area to deploy the extended spectrum authorized by the Federal Communications Commission in 1988, by installing new radio and other facilities at capacity-constrained cell sites. BACTC also has taken vigorous actions, in concert with other cellular carriers, to mitigate the serious risks of fraudulent misuse of cellular numbers and equipment.

BACTC's Customer Care Department has regularly studied customer satisfaction levels and reports consistently favorable results. The steady decline that has occurred in recent years in the rate of customer "churn" -- that is, the percentage of customers switching from one service provider to another -- tends to validate these findings.

B. BACTC Has Introduced Numerous Innovations Which Have Enhanced the Value of Its Cellular Service or Made Added Service Options Available to Its Subscribers.

While focusing here particularly on its efforts to offer innovative services advantageously priced for particular customer types, BACTC also wishes to note that it has concurrently taken steps to enhance the value of all its services, without any

corresponding increases to the rates charged for them. For example, BACTC has worked for a number of years to simplify and rationalize arrangements for allowing visiting cellular users to "roam" on its network and to allow its own subscribers to employ their cellular equipment on other carriers' networks. This effort achieved success in late 1988, when BACTC inaugurated extended roaming on the Super AccessSM System, permitting its own customers to receive incoming calls automatically when roaming in the service areas of other California carriers participating in the program. More recently, in April 1992, BACTC was among the first cellular carriers to sign on to a fully automated nationwide roaming system, the North American Cellular Network.

In addition, BACTC has deployed a number of optional features, including voice mail, international dialing, and such custom calling features as call forwarding, call waiting, three-way calling, call diversion, and "do not disturb" service. BACTC has recently conducted market trials aimed to develop the potential for wireless data services. One such trial involved the interconnection of the "personal assistant" notepad computer now being marketed by EO Systems. Another trial currently underway is evaluating the feasibility of a Cellular Digital Packet Data ("CDPD") service.

C. BACTC Is the First Cellular Carrier in California to Deploy Digital Service on a Commercial Basis.

As noted above, in order to meet increasing demand with limited transmission sites and also to anticipate the offering of new services by current and future competitors, BACTC was the

first cellular carrier in California to offer digital cellular service on a commercial basis. In October 1993, BACTC launched the first fully functional digital cellular service in California, providing immediate benefits to all its subscribers through enhanced reliability and clarity of service, as well as additional benefits in the form of reduced rates for those customers choosing to subscribe to one of the new TDMA service plans, described in Section III.A, above.

The move to digital service has required very substantial capital investments in addition to those required of BACTC in the ordinary course of system expansion. However, as digital technology is deployed throughout BACTC's network, it will dramatically increase the system's transmission capacity, possibly diminishing the need for construction of additional cell sites. A digital network also will enable BACTC to develop and offer a wide array of innovative voice and data services, further enhancing the value of basic cellular service.

V. CONCLUSION

The account provided above demonstrates that BACTC, as one of two newly founded enterprises presented with the challenge of deploying cellular mobile radiotelephone service for the San Francisco Bay Area, has overcome substantial obstacles and has succeeded beyond the best informed expectations. BACTC's success has not been the fruit of anticompetitive market power. To the contrary, to succeed and to maintain success in the dynamic and challenging cellular communications market has required BACTC to

deploy its facilities rapidly, to configure and market its services imaginatively, and to enhance and upgrade those services on a continuing basis while offering an array of service plans suited to the needs and resources of a wide array of subscribers.

The future of mobile communication services promises to be even more vigorously competitive than the past decade has been. The duopoly model does not match this competitive reality, and its regulatory implications would impair, not enhance, competition. At least in dense urban markets such as the San Francisco Bay Area, market conditions will not be suited to or require intensive regulatory control over the rates and terms of services offered to present or potential subscribers. To the contrary, the complexity and inertia of current tariffing requirements, let alone a traditional cost-of-service ratemaking regime, will tend to impair the responsiveness of cellular carriers to competitive pressures from present competitors and new entrants to the market.

BACTC respectfully urges the Commission to compare the array of mobile communication services offered for public use in 1994 with what was available ten years ago, and to acknowledge the dynamic and challenging character of the market for these services. As new competitors, armed with a new generation of innovative technologies, enter this market, cellular carriers such as BACTC will not be free to rest on their laurels, but will face ever greater challenges to maintain their market share and their customer base. The Commission should not require BACTC and other cellular carriers to compete from a position of weakness, constrained by rate-setting formulas and tariffing procedures not

imposed on their competitors. Instead, the Commission should let competition flourish by freeing all mobile communication service providers to develop, to market, and to sell their services on the terms they choose.

Respectfully submitted,

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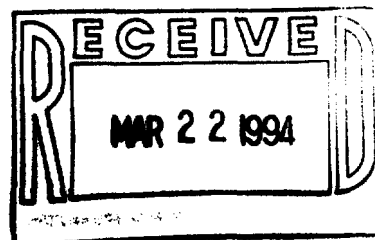
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February 25, 1994

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Investigation on the Commission's)
Own Motion into Mobile Telephone) I.93-12-007
Service and Wireless Communications.) (Filed December 17, 1993)

**REPLY COMMENTS OF
BAY AREA CELLULAR TELEPHONE COMPANY (U-3007-C)**



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**REPLY COMMENTS OF
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Pursuant to Ordering Paragraph 5 of the Commission's Order Instituting Investigation ("OII") adopted December 17, 1993, and the subsequent ruling of Administrative Law Judge Pulsifer, issued January 28, 1994, Bay Area Cellular Telephone Company ("BACTC") hereby submits its reply comments in response to the OII.

I. Before Judging Whether the Market in Which Cellular Carriers Operate Is Competitive, the Commission Must Define that Market Consistently with Economic Reality.

In their opening comments, a number of parties, BACTC included, sought to demonstrate the dynamic character of the market for mobile and wireless telecommunications services in California. These commenters emphasized the challenges cellular carriers have faced in deploying their services to meet unexpectedly high demand and in broadening the scope of their services to meet a range of customer needs. They concluded, generally, that the Commission should allow the carriers greater discretion in setting rates, in order to facilitate their responsiveness to emerging competitive challenges.

Several other parties, including the Division of Ratepayer Advocates ("DRA"), the Cellular Resellers Association

("CRA"), Cellular Service, Inc. ("CSI"), the County of Los Angeles ("CLA"), and MCI Communications Corp. ("MCI") contended, to the contrary, that the cellular carriers have dominated their market as anti-competitive "duopolists," exploiting their market power to deny business opportunities to potential competitors and to burden their subscribers with excessive rates.

BACTC sincerely believes that these parties have failed to keep their eyes on the ball. The market for cellular radiotelephone service is not a discrete and impervious preserve for "duopolists" to dominate and exploit. It is simply a subset of a broader market for mobile and wireless communications services which are becoming more interdependent and more interchangeable from day to day and at lightning speed.

The host of novel products, services, and arrangements and combinations of such products and services that are being developed, marketed, deployed, sold, and used in our communities is truly phenomenal. Some of them are being developed, deployed, and offered by cellular carriers.^{1/} Many more are being presented to the market by competing manufacturers and service providers, a few of them lightly regulated but most of them not subject to economic regulation at all.

A casual perusal of "The Week's Stories in Brief" from the most recent edition of the newsletter of the Personal

1/ Examples are BACTC's ongoing deployment of TDMA digital services and its current trial of Cellular Digital Packet Data ("CDPD") service, as described in BACTC's opening comments, at 14-15, 20.

Communications Industry Association, attached to these comments as Exhibit A, makes this trend vividly evident.

- The first story addresses the opposition of the national associations for the wireless communications industry and the telephone industry to a proposal in Congress to give the broadcast industry flexibility to employ radio spectrum now reserved for High Definition Television ("HDTV") to provide their own versions of personal communications service ("PCS"). The opponents attacked this proposal as destructive to Congress' and the FCC's plans for auctioning a different portion of the radio spectrum for PCS and as imperiling this country's lead in developing HDTV.
- The second story describes an FCC decision that will require many public safety microwave users to give up their use of portions of the radio spectrum now to be assigned to PCS.
- The next story, on page 4, summarizes a recent FCC decision defining the rules for the impending auctions of radio spectrum to support narrowband and broadband PCS and other new technologies. The FCC will employ simultaneous multiple round bidding, in order to maximize participants' knowledge of competing bids in many spectrum blocks. This auction method will be used especially for portions of the market that are expected to have high values and where one market may be more valuable if a bidder can win surrounding markets as well. The FCC also set rules designed to encourage market entry by small businesses, women and minority owned businesses, and rural telephone companies.
- The story on page 5 describes a series of acquisitions by Dial Page, a paging company that is deploying an Enhanced Specialized Mobile Radio ("ESMR") service comparable to that of Nextel Communications. These acquisitions will cover the four largest markets in the State of Texas, and will bring Dial Page into direct competition with Nextel in that state.
- The next story addresses Motorola's introduction of "Envoy," described as "its personal intelligent communicator and personal digital assistant." Envoy will combine two-way data communications, a large variety of software programs, and a device for information management. It will have three options for communications -- a wireline data network furnished by AT&T, a wireless network provided by Ardis (an IBM/Motorola partnership), and an infrared medium for communicating at short distances with compatible

devices. Future generations of Envoy may be used with ESMR systems, the two-way Nationwide Wireless Network being built by Mobile Telecommunications Technologies (formerly a paging company), the RAM Mobile Data network, and the Cellular Digital Packet Data ("CDPD") systems being developed by cellular carriers.

- The story on page 7 describes the introduction of wireless communications services based on a very different, but directly competitive service "platform," the Hewlett-Packard HP 100LX palmtop computer. In conjunction with several paging companies, including PageNet and SkyTel, Hewlett-Packard is offering four different pricing plans for a variety of wireless messaging services, ranging from a Basic plan priced at \$10.95 per month plus per-message charges to Local, Regional, and Nationwide plans bundling different volumes of usage into monthly charges ranging from \$19.95 to \$62.95 per month.
- The next story, on page 8, reports Apple Computer's announcement of "a new generation of its Newton personal digital assistant," along with new "two-way wireless communications options for Newton users." An existing option offers one-way messaging, data communications, and paging over the BellSouth MobileComm system. New arrangements with Ardis, RAM Mobile Data, and Digital Ocean Inc. will offer access to these companies' two-way wireless networks.
- Further stories, on pages 8 through 10, describe a new anti-fraud system being tested by Nynex Mobile Communications, the rapid growth in revenues for CenCall Communications Corp., which is building a large ESMR system in the western and northwestern states, the plans of PageNet to deploy a new high-speed paging protocol developed by Motorola, and the purchase by the U.S. subsidiary of Leica Corp. of a global system positioning business from Magnavox Electronic Systems.
- Finally, brief reports on pages 10 to 11 include notes about Nextel's selection of computer industry suppliers for its ESMR system, Phoenix Management Inc.'s announcement of a new product aimed to allow the hearing-impaired to use cellular phones and other telecommunications equipment, and a joint venture between RAM Mobile Data and Oracle Corp. that will make Oracle database products available to portable and handheld computer users over RAM's wireless data network, which covers 6,300 cities and towns across the United States.

* * *

BACTC has not colluded with the Personal Communications Industry Association to produce a collection of biased reports geared to support BACTC's reply comments in this proceeding. The stories noted above, and attached as Exhibit A, are just this week's news about developments in the mobile and wireless communications marketplace. This news is amazing. It is exciting. It is indicative of the very dynamic and challenging character of the wireless and mobile telecommunications marketplace to which BACTC referred in its opening comments.

What is particularly noteworthy in the news reports summarized above is the relatively small role of cellular carriers and cellular services in these breaking developments. The news is about PCS and ESMR. It is about the new "platforms" for wireless data services, involving alliances among Motorola, AT&T and IBM, among Hewlett-Packard, PageNet and SkyTel, and among Apple, BellSouth and RAM Mobile Data. This does not happen to be the week for California's cellular carriers to announce their latest service innovations, but they will surely have to react to the announcements that have been made -- because every one of those announcements is of a product or a service or a combination of products and services that will compete with California's cellular carriers on their own turf, and soon.^{2/}

Those who would have the Commission tightly regulate the cellular carriers as market-dominating "duopolists" ignore the

2/ See especially the discussion of the Nextel/MCI plan for ESMR service in Section III.A below.

relevance of the many competing technologies and competing networks that are poised to claim important shares of the cellular carriers' potential and present market. To survive the onslaught of new competitors and new products, the cellular carriers must compete not only with each other, but must be aggressive in their responses to emerging competition in the broader wireless arena.

All available information compels the conclusion that the "relevant market" for assessing the effectiveness of competition for the services cellular carriers offer is the entire market for mobile and wireless services. There is no apparent justification for treating the market for wireless data as distinct from that for wireless voice communications, nor for treating "fleet" service as distinct from that for individual end users. The market strategies of the cellular carriers and, as indicated by the Communications Week article attached as Exhibit B, of the MCI/Nextel alliance, are to compete aggressively for all facets of wireless usage and all classes of wireless customers. Any claims that the "relevant market" should be more narrowly defined must either be put to the test of evidentiary hearings or rejected out of hand.

II. BACTC Has Shown That the Market for Mobile and Wireless Services Has Been and Continues to Be Characterized by Dynamic Competitive Forces.

BACTC sought to demonstrate in its opening comments that over the lifespan of the cellular industry -- less than a decade -- the market for cellular service has been a dynamic and challenging one. BACTC showed that cellular carriers have been

challenged to bring facilities on line to meet unexpectedly strong demand for cellular service and to upgrade those facilities repeatedly to provide and maintain the high quality of service California's telecommunications users expect and demand. The high level of demand for its services has enabled BACTC, like other carriers, to plow substantial portions of its profits back into its business through investments in cell sites and switching offices and enhanced transmission technologies such as the deployment of digital TDMA service. In addition, BACTC showed how it has tailored various rate plans to suit customers' needs, providing a greater range of choices with opportunities for customers' to enjoy significant rate savings.

) All these examples demonstrate that the environment in which BACTC offers and provides its services requires sensitivity and responsiveness to customer needs and expectations. Other carriers made similar showings. This body of information is strong evidence that there is, indeed, a vigorously competitive market for cellular services in California.

In their opening comments, BACTC and several of the other cellular carriers showed competitive results. In reviewing the opening comments of other parties, including the cellular carriers' competitors, both present and future, what do we find?

Interestingly, we find that Nextel and Pacific Bell, the two companies likely to provide the most serious competition to the cellular carriers over the next two to five years by providing ESMR and PCS, respectively, support BACTC's position that effective market competition will not result from the command and

control regulation proposed by the Commission in the OII. Pacific Bell Comments, at 14-16; Nextel Comments, at 18-21. While Nextel supports the dominant/nondominant distinction, it has recommended against adoption of the major elements which would result from asymmetrical regulation, namely unbundling and the imposition of price caps. Id.

Less surprisingly, we find our present competitors, namely CRA and several individual cellular resellers, singing the same old tune about "duopoly" market power and rehashing their tired position that unbundling of bottleneck elements, here radio frequency spectrum, is essential for promoting competition, because it would allow cellular resellers to compete more effectively with the cellular carriers.

DRA is similarly in favor of command and control regulation under the misguided assumption that protection of the cellular resellers is necessary to generate competition. Unfortunately, DRA is trying to superimpose the template of OAND concepts, which are intended for the protection of competitors in the truly monopolistic environment ruled by local exchange companies ("LECs") who unquestionably own and control essential bottleneck functional elements of landline telephony, onto the cellular industry. DRA Comments, at 23-26. The Commission should resist such a facile but faulty comparison, which would apply a regulatory framework meant to address a set of problems specific to wireline telecommunications to the mobile and wireless industry without accounting at all for the different histories, technologies, and market structures characteristic of each.

III. Asymmetrical Regulation Will Impair, Not Improve, the Effectiveness of Competition in the Relevant Market.

CRA would have the Commission believe that artificially protecting and enhancing the cellular resellers' market niche somehow will achieve effective competition. DRA appears to subscribe to the same theory. However, there is no evidence that the competition provided by cellular resellers provides any significant benefits to end users. The competition that offers real consumer benefits is the competition among the several existing and many emerging systems, networks, and technologies for mobile and wireless communications, of which cellular is only one.

CRA and DRA, along with several other parties, have taken in their opening comments a very narrow view of the wireless market, limiting their discussion about fostering competition to cellular services. As demonstrated by the previous discussion of new technologies and products, this view of the market is inaccurate. Those parties disparage the competitive threat posed by new wireless services as not being economically viable until some years from now (two years for ESMR and five years for PCS). Each holds fast to the notion that command and control regulation of the cellular carriers is necessary to protect customers today and to permit the future entry of new wireless services. This narrowness of view, self-serving from the resellers' perspective and simply misguided on the part of DRA, causes each to support various mechanisms, including price caps and unbundling, which will have the anomalous result of impeding competition in the broad wireless market and hindering entry of new providers into

this market, ultimately inflating prices to end users and limiting the choices available to them.

- A. The plans of Nextel Communications to deploy ESMR service in major urban areas pose an immediate competitive threat to BACTC and other cellular carriers.

Nextel has described its plans for rolling out ESMR services to business customers in California, with its advanced digital service already deployed in the Los Angeles area and to be extended to other major metropolitan areas of California in coming months. Nextel Comments, at 2-4. Nextel avers that ESMR is already exerting competitive pressure on the cellular carriers:

In anticipation of Nextel's entry, the cellular carriers have engaged in unprecedented price reductions and offered new contract plans featuring volume and term discounts designed to "tie up" their customer base for up to three years.

Nextel Comments, at 14.

Neither the Commission nor DRA need be concerned that Nextel will be slow in entering the market in a competitive fashion. In assessing its own competitive role, Nextel states that it "fully expects to compete vigorously for as much of the wireless market as it can possibly gain." Nextel Comments, at 22.

Another current news item demonstrates just how soon the cellular carriers will be facing Nextel's competition: The March 14 issue of Communications Week reports that MCI's purchase last month of a \$1.3 billion stake in Nextel Communications Inc. is part of an MCI/Nextel plan "to offer digital voice, two-way paging, dispatch and data messaging services integrated with MCI's long distance service in at least 10 major metropolitan markets by

the first quarter of next year and in all major U.S. cities within two years." See Exhibit B, attached hereto. Communications Week quotes Bert Roberts, MCI's chairman and CEO: "By this time next year, we expect to see MCI digital wireless services in major cities throughout the United States." Id.

CRA disparages the competitive challenge posed by Nextel on the grounds that Nextel has not begun service, has no subscribers and will have higher costs than cellular because it is a start-up entity. CRA Comments, at 17-18. CRA also disparages the competitive impact of PCS as a viable competitive alternative to the cellular carriers. CRA points to the small size of the PCS cells, about one mile in diameter, and the difficulty in construction of the PCS systems as indications that PCS will not be a serious competitor for five years. CRA Comments, at 21-22.

DRA joins CRA in stating that the ESMR and PCS providers will not offer competition immediately, concluding that the full panoply of regulation associated with the dominant carrier appellation should be imposed on the cellular carriers. DRA opines that ESMR will take two to three years to affect competition (DRA Comments, at 8-11) and that PCS will be viable in two to four years as a competitive alternative to cellular. DRA Comments, at 6-8.

MCI worries that ESMR and PCS providers will face technical, regulatory, and market barriers and are not likely to provide "effective competition to incumbent facilities-based cellular providers for several years." MCI Comments, at 9. MCI further states that the Commission base its regulatory framework

on the assumption that robust, multicarrier MTS competition is not imminent. MCI Comments, at 11.

All this handwringing would astound BACTC, were it not so predictable. The cellular industry is barely ten years old. The cellular carriers are still absorbing their start-up costs, investing in their infrastructure and are continually being pressed into new marketing ventures. ESMR is by all accounts only two years from bringing effective competition to bear on the cellular industry. PCS is roughly three to five years from deployment, with as many as seven independent licensees to be set loose in every region of California and the nation.

- B. By driving down the price of cellular services, cost-based price caps would have the effect of impeding competitive entry by new wireless technologies.

CRA asserts that cost-based price caps on wholesale cellular rates are necessary to stimulate competition. CRA Comments, at 32. While such controls may benefit resellers, they will have just the opposite effect for those technology-based companies that seek to deploy new mobile and wireless services. CRA is just plain wrong.

Consider the anti-competitive impact of CRA's recommendation for cost-based price caps in light of the imminent availability of ESMR as a cellular alternative and the problems inherent in CRA's narrow view of the "market" as limited to cellular services will be apparent. CRA avers that Nextel will be unable to compete with cellular carriers on the basis of price, because Nextel "will undoubtedly follow [the cellular carriers']

price leadership." CRA Comments at 18. This assertion is unfounded, and should not be given any credence absent a convincing evidentiary showing.

Nextel is deploying a new service, beginning with a very limited customer base. As a new company, Nextel lacks name or brand recognition, and even with its alliance with MCI will lack a proven track record in the wireless industry. How else can Nextel/MCI hope to compete effectively against the cellular carriers except on the basis of price? Nextel does not support price caps. Nextel Comments, at 18-19. If the prices for cellular services are forced below what those levels the market has supported, the new wireless entrants will have far less incentive or room to compete.

- C. The imposition of unbundling requirements offers benefits only to the cellular resellers and will not foster competition in the broader wireless market.

The unbundling issue is similar to that of price caps. In this instance, BACTC agrees with the comments of Pacific Bell that "if there are two providers, there are no essential facilities unless the two are working together (i.e., colluding)." Pacific Bell Comments, at 9. There is no evidence that BACTC or any other cellular carrier has colluded with the competing cellular carrier or carriers in its markets. More importantly, the impending emergence of ESMR and PCS competitors, as well as the many wireless data services already coming on the scene, obviate any issues of monopoly control over the use of radio spectrum for mobile and wireless services.

There is no secret about why the resellers desire unbundling -- it would enable them to prolong and enlarge the artificial market niche they have enjoyed for the past decade. DRA's support for unbundling, however, needs to be examined more closely. DRA advocates unbundling on behalf of the ratepayer's interests. However, this "handicapping" of the cellular carriers can make sense only by denying the imminence of the new forms of wireless competition discussed above. DRA recognizes that ESMR will provide viable competition within two years. DRA Comments, at 9. That competition does not depend in any way upon the availability of unbundled elements of cellular service. Rather, ESMR providers such as Nextel would enjoy an unfair competitive advantage if they were allowed to offer their network services solely on a bundled basis while their cellular competitors were forced to unbundle the elements of their networks.

- D. The competition most important for the future mobile and wireless marketplace is that of new technologies and networks rather than that of cellular resellers.

Certainly, consistent with the intentions of this Commission and the FCC to mitigate the "head start" advantage of the wireline carriers, the role of resellers was important for the development of competition in the first years of cellular service, when the most important reseller in each market was the non-wireline carrier operating off the wireline carrier's system prior to having its own facilities in operation. This regulatory encouragement and protection of resale did achieve its goal of

leveling the competitive arena between the two authorized carriers.^{3/}

This Commission has never promoted competition for the sake of competitors. Rather, the public policies favoring fair and effective competition are intended for the benefit of the end users of the relevant services. Institutionalizing the protection of cellular resellers through a regulatory framework that applies drastically different regulatory requirements to service providers defined as dominant or nondominant will not, in the end result, benefit either competition or the end users of cellular services. Protection of the cellular resellers' niche handicaps cellular carriers from competing in the marketplace at the very time when market forces should be relied upon and encouraged to discipline the provision of all mobile and wireless services, including ESMR and PCS, to the sophisticated and demanding customers and potential customers of those services.

Continued efforts to preserve and expand the market niche of cellular resellers will not substantially enhance effective competition in the broader market for mobile and wireless services. Rather, the source of more effective competition will be the entry of new carriers and the deployment of new technologies both by those new carriers and by present providers of cellular, paging, and specialized services.

3/ Thus, for example, BACTC initiated service in 1985 as a reseller of GTE Mobilnet's service and, by the time BACTC's own network became operational in the fall of 1986, BACTC was able to transfer sufficient traffic from GTE's network to its own to immediately gain the largest share of the Bay Area cellular market.

Ratepayer interests will be better served by allowing ESMR, PCS, cellular, and other services to square off against each other in the marketplace without any of them being handicapped by command and control regulation.

True and effective competition is present today between the cellular carriers themselves, as attested by BACTC's and other carriers' demonstrations in their opening comments of the trends in rates and service quality. True and effective competition among the various alternative wireless technologies is imminent within the next two to five years. Should the Commission insist on applying the complex regulatory models proposed by CRA and its allies, ESMR will be fully operational by the time the new scheme of cellular regulation is in place. The administrative costs and burdens associated with such a regulatory regime will substantially impair the ability of cellular carriers to compete, skewing the competitive equation to the detriment of some carriers and all end users.

IV. Conclusion

With the many challenges presented by innovative and competing technologies in the mobile and wireless industry, BACTC respectfully urges the Commission not to require BACTC and other cellular carriers to compete from a position of weakness, constrained by rate-setting formulas and unbundling rules not imposed on their competitors. Instead, the Commission should let